

Dispute Resolution . . .

Occupational Disease Panel

Mediation

Contested Case Hearings

Workers' Compensation Court

Occupational Disease Panel

The Workers' Compensation Claims Assistant Unit of the Employment Relations Division (ERD) is responsible for the occupational disease (OD) panel process. The panel process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the Department. The medical evaluator submits a report of findings to the Department. A copy of the report is then sent to the claimant and the insurer for determination.

Disputes that are not resolved through mediation are subject to the jurisdiction of the Workers' Compensation Court.

Effective April 23, 1999, a legislative change altered the OD process. OD claims with dates of injury prior to April 23, 1999 can elect to remain in the contested case process or may choose the new process with one independent examination:

§ 39-72-602. Insurer may accept liability – procedure for medical examination when insurer has not accepted liability... Applies retroactively to occupational diseases occurring before April 23, 1999 unless a party elects, after notification by the Department of Labor and Industry, to remain in the contested case process. Eliminates the three step procedure and replaces it with one independent examination and a report from the evaluator. If a dispute exists regarding the compensability of an occupational disease claim, the jurisdiction is transferred from the Department's Contested Case Hearing process to mediation and then to the Workers' Compensation Court.

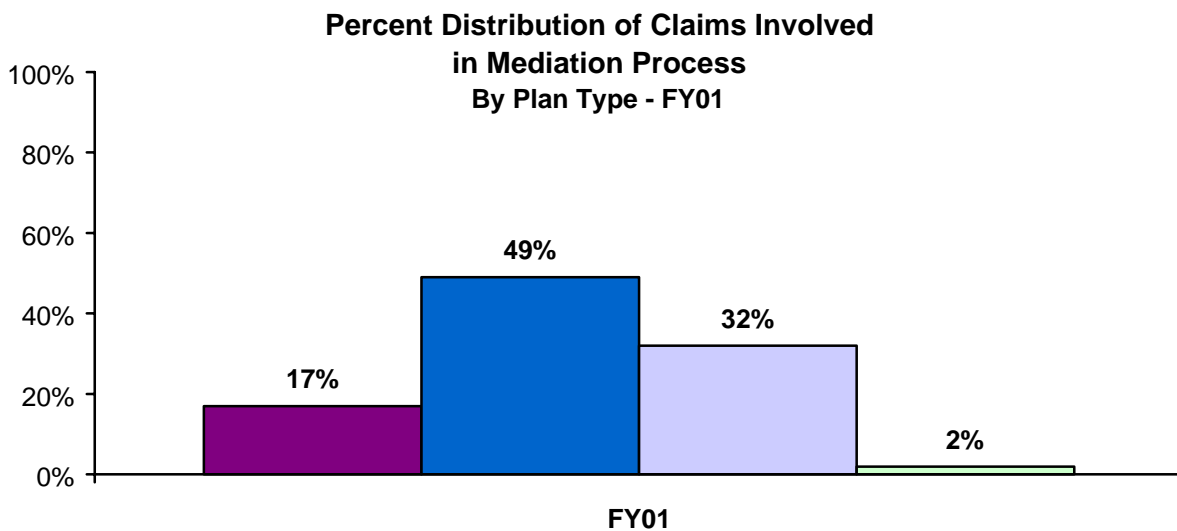
As a result of these changes, the capture of OD case data changed beginning with fiscal year 2000.

**Occupational Disease Cases Processed
By Plan & Fiscal Year**

Plan	FY00	FY01
Plan 1	47	42
Plan 2	87	82
Plan 3	58	43
Total	192	167

Mediation

The Workers' Compensation Mediation Unit of the Employment Relations Division provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding, and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in person in Helena or by telephone conference. Often, more than one conference is held in order to resolve the disputes on a claim. In Fiscal Year 2001, the Mediation Unit received and processed 1,195 petitions, which involved 1,334 claims.



Notes:

*UEF means Uninsured Employers Fund.

**Percent Distribution of Claims Involved
in Mediation Process
By Plan & Fiscal Year**

	FY97	FY98	FY99	FY00	FY01
Plan 1	13%	16%	16%	15%	17%
Plan 2	34%	35%	39%	46%	49%
Plan 3	50%	46%	43%	36%	32%
UEF*	3%	3%	2%	2%	2%
Total	100%	100%	100%	100%	100%
Total Count¹	857	913	1,187	1,301	1,334

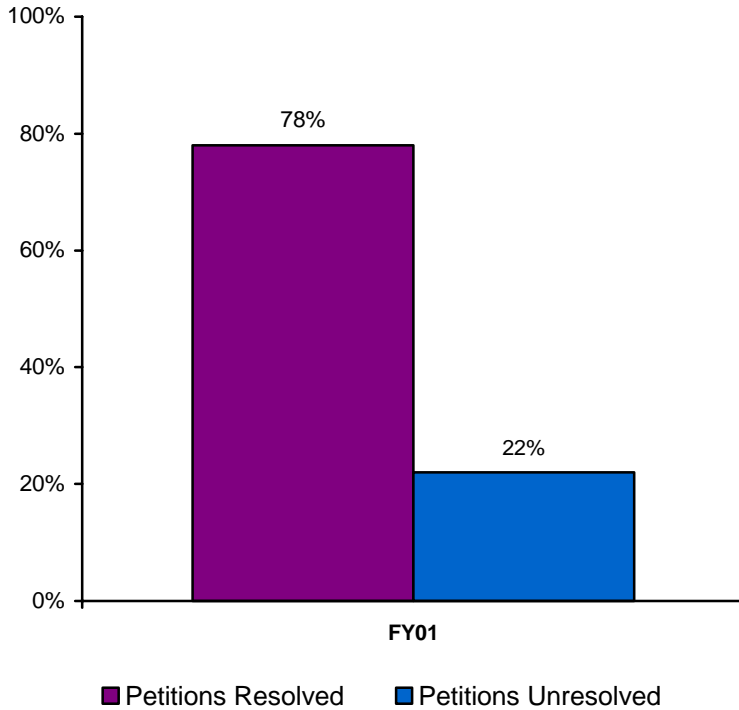
Notes:

*UEF means Uninsured Employers Fund.

Prior to fiscal year 1999 we were unable to track multiple plan numbers or claims; therefore total counts for these years are incomplete.

¹Total Count represents number of claims, not number of petitions.

**Percent Distribution of Petitions Resolved
in FY01**



- Over the past five years Mediation has had an approximate resolution rate of 79%.
- Mediation took an average of 37 days to complete a case for which a conference was held and a written recommendation issued.

**Distribution of Petitions Received
By Fiscal Year**

Petitions Received	FY97		FY98		FY99		FY00		FY01	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending*	1	0.1%	16	2%	2	1%	8	1%	127	11%
Closed	856	99.9%	897	98%	1,089	99%	1,160	99%	1,068	89%
Total Petitions Received	857	100%	913	100%	1,091	100%	1,168	100%	1,195	100%
Resolved	678	79%	706	79%	870	80%	900	78%	829	78%
Unresolved	178	21%	191	21%	219	20%	260	22%	239	22%
Total Petitions Closed	856	100%	897	100%	1,089	100%	1,160	100%	1,068	100%

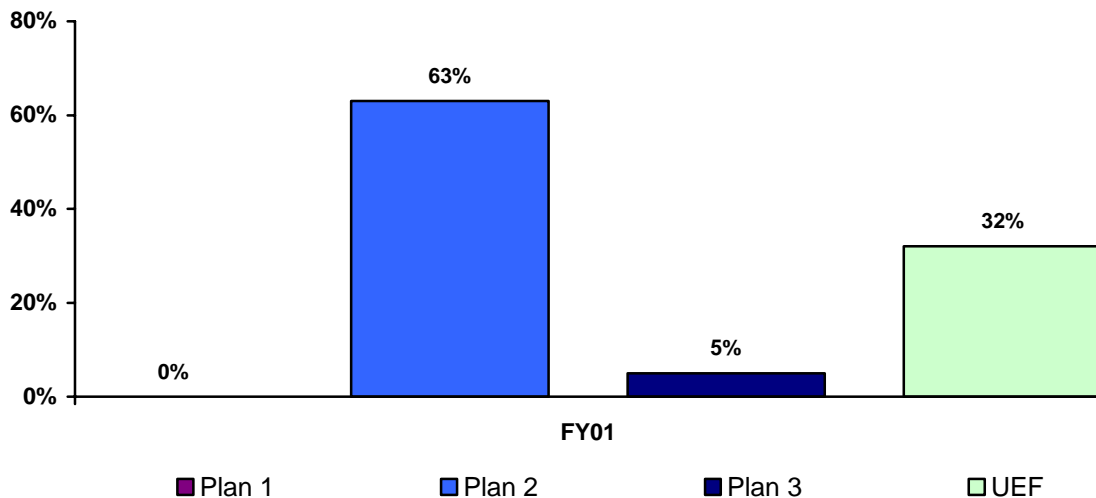
Notes:

*Eventual outcome of pending petitions will affect percent resolved.
A single petition may include multiple claims and/or multiple insurers.

Contested Case Hearings

The Department of Labor and Industry's Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue, and regulation of attorney fees. The numbers of cases being heard by the Hearings Bureau has been declining since Fiscal Year 1998, when the Legislature transferred responsibility for hearing occupational disease claims to the Workers' Compensation Court. For Fiscal Year 2001 the Hearings Bureau received 19 requests for contested case hearings. Twenty-three petitions had been closed or settled as of June 30, 2001.

**Percent Distribution of Petitions Received
By Plan Type - FY01**



**Distribution of Petitions Received
By Plan Type & Fiscal Year**

	FY97		FY98		FY99		FY00		FY01	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	10	8%	12	11%	16	23%	5	16%	0	0%
Plan 2	32	27%	43	38%	21	30%	14	45%	12	63%
Plan 3	48	40%	33	29%	14	20%	6	19%	1	5%
UEF ¹	30	25%	26	23%	18	26%	6	19%	6	32%
Underinsured ²	1	0%	NA	NA	NA	NA	NA	NA	NA	NA
Total	121	100%	114	100%*	69	100%*	31	100%*	19	100%

Notes:

¹UEF means Uninsured Employers Fund.

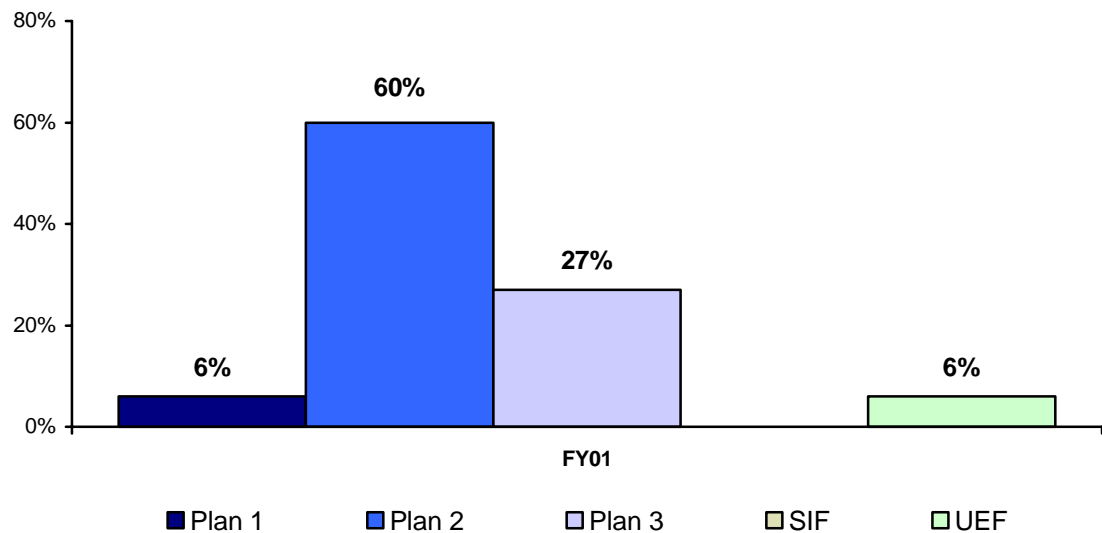
²Underinsured was repealed in 1997.

*Columns may not sum 100% due to rounding.

Workers' Compensation Court

The Workers' Compensation Court resolves disputes between insurers/employers and injured workers, and for workers disabled as a result of an occupational disease. The Court has original jurisdiction over benefit issues under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 1, 1987, the controversy must first be mediated. In cases of original jurisdiction the Court holds a trial. The Court has appellate jurisdiction over decisions made by the Department of Labor and Industry involving other workers' compensation and occupational disease controversies. Additionally, the Court conducts judicial review over decisions of the Classification and Review Committee (Commissioner of Insurance) regarding classification of employees.

**Percent Distribution of Petitions Received
by Plan Type - FY01**



**Distribution of Petitions Received
By Plan Type & Fiscal Year**

	FY97		FY98		FY99		FY00		FY01	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	20*	10%	18*	7%	18*	7%	23*	9%	14	6%
Plan 2	92*	44%	98*	40%	136*	50%	118*	45%	144*	60%
Plan 3	89*	43%	116*	47%	95*	35%	86*	33%	65	27%
SIF ¹	0	-	1	0%**	0	-	0	-	1*	0**
UEF ²	6*	3%	13*	5%	21*	8%	34*	13%	15*	6%
Total by Plan	207*	100%	246*	100%	270*	100%	261*	100%	239*	100%
Total Cases	202	100%	235	100%	266	100%	255	100%	228	100%

Notes:

*Petitions involving more than one plan account for the higher totals.

** Less than one percent.

¹SIF means Subsequent Injury Fund.

²UEF means Uninsured Employer Fund.

**Distribution of Decisions
By Workers' Compensation Court
By Fiscal Year**

Decisions	FY97	FY98	FY99	FY00	FY01
Bench Rulings w/out written decisions	1	2	3	1	3
Decisions	52	45	61	66	90
Orders on Appeal	5	9	4	8	0
Substantive Orders	40	52	22	36	64
Attorney Fee Orders	6	3	2	1	7
Orders on Cost	9	8	13	5	4
Disposed of by Telephonic Conference	6	6	-	-	-
Subtotals	119	125	108	117	167
Petitions Dismissed by Agreement	135	155	157	175	136
Totals	254	280	265	292	303